

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

THE CITY OF NEW YORK,

Counterclaim Plaintiff,

-v-

ANDRE DENNIS and CARLO NAPPI,

Counterclaim Defendants.

20 Civ. 7251 (PAE) (KHP)

ORDER

PAUL A. ENGELMAYER, District Judge:

On October 1, 2020, counterclaim plaintiff the City of New York (the “City”) filed counterclaims against counterclaim-defendant Carlo Nappi. Dkt. 6.<sup>1</sup> On November 6, 2020, the City served Nappi with process. Dkt. 12. On January 13, 2021, after Nappi failed to appear or respond to the counterclaims, the City obtained a certificate of default. Dkt. 27. On February 23, 2021, the City moved for a default judgment against Nappi. Dkts. 28–30. On March 22, 2021, however, the City alerted the Court that it had received *pro se* correspondence from Nappi challenging the sufficiency of service on him. Dkt. 33. In its letter, the City consented to waive Nappi’s default and proceed on the merits; the Court agreed, and vacated the certificate of default as to Nappi. Dkt. 34. Nappi, however, then missed his deadline to respond to the counterclaims. Dkt. 43. On April 30, 2021, after an extension, Nappi ultimately moved, via email, to dismiss the counterclaims for lack of service. Dkt. 43. On May 4, 2021, the Court denied that motion and directed Nappi to answer by May 14, 2021. Dkt. 45.

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<sup>1</sup> The City also brought counterclaims against Kevin Ringelberg and Andre Dennis. Dkt. 6. Originally, Ringelberg had sued the City for alleged violations of his constitutional rights. Dkt. 1. Ringelberg and the City have since settled all claims between them. *See* Dkts. 19–22. Dennis has not appeared to defend this action, and the Court has granted a default judgment, solely as to liability, against him; an inquest into damages remains pending. *See* Dkts. 35, 52.

Nappi has not done so, or otherwise appeared in this action. On June 22, 2021, the City obtained another certificate of default against Nappi. Dkt. 55. On July 13, 2021, the City moved for a default judgment against Nappi. Dkt. 57. On July 14, 2021, the Court issued an order observing that the City's motion papers were in good order, and notifying the parties that, in light of the public-health situation, it intended to resolve the City's motion on the papers. Dkt. 60. The Court also directed Nappi to file any opposition to the City's motion by July 21, 2021, at 2:30 p.m., and directed the City to serve the order on Nappi and file proof of service by July 14, 2021. On July 14, 2021, the City filed an affidavit proving service of the Court's July 14, 2021 order on Nappi. Dkt. 61. Nappi has failed to appear or in any manner object to the City's motion.

The Court has carefully reviewed the City's motion for a default judgment, Dkt. 57; the accompanying declaration of Krista Friedrich, Dkt. 58, and the exhibits attached thereto; as well as the City's memorandum of law, Dkt. 59, under Federal Rule of Civil Procedure 55(b). Because proof of service has been filed, Nappi has not answered the counterclaims and the time for answering the counterclaims as expired, and Nappi failed to contest entry of a default judgment by the appointed date and time, the Court enters a default judgment as to liability for the City against Nappi.

The Court, by separate order, will commission an inquest into damages. The Clerk of Court is respectfully directed to terminate the motion pending at docket 57.

SO ORDERED.

  
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PAUL A. ENGELMAYER  
United States District Judge

Dated: July 22, 2021  
New York, New York